

THE HONORABLE RICHARD A. JONES

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

Plaintiff,

VS.

ALFRED H. CHAN, M.D., P.C., a corporation; ALFRED H. CHAN, an individual; JUDY H. CHAN, an individual; ALFRED H. CHAN, M.D., P.C. DEFINED BENEFIT PLAN & TRUST, an employee pension benefit plan

Defendant.

This matter comes before the Court on the “Fee Application” of Robert Moore, the Independent Fiduciary of the Alfred H. Chan, M.D., P.C. Defined Benefit Plan & Trust. Dkt. # 8. Mr. Moore’s Fee Application requests approval of \$12,342.50 in additional fees and expenses related to the continued administration of the Plan. *Id.* No party has filed a response to the Fee Application.

Under the terms of this Court’s previous Order, the Independent Fiduciary’s fees were capped at \$17,500. Dkt. # 6 at 3. In order to receive approval for additional fees, the Independent Fiduciary was required to (a) provide the Court with an itemized fee application; and (b) “concurrently send a copy of this application and any supporting

1 documents to the Secretary's representative, San Francisco EBSA Regional Director
2 (currently Jean Ackerman) at 90 Seventh Street, Suite 11-300, San Francisco, CA
3 94103." *Id.* The Secretary would then have 15 calendar days to object to the application.

4 *Id.*

5 Here, although Mr. Moore filed an itemized application, he did not provide any
6 proof that he "concurrently" sent a copy of this Fee Application to the Secretary at the
7 San Francisco location. Mr. Moore's Certificate of Service indicates that the Fee
8 Application was sent to the United States Department of Labor in Seattle, but does not
9 mention San Francisco. Dkt. # 8 at 6. This Court's previous Order set the requirement to
10 send a copy to the San Francisco location as a clear condition precedent to receiving
11 approval for additional fees, and the Court does not intend to rewrite its previous Order.

12 Accordingly, the Court **DENIES WITHOUT PREJUDICE** the Fee Application.
13 Dkt. # 8. The Independent Fiduciary may re-file his application, which this Court
14 expects to contain *both* an itemized list of expenses and proof that the application was
15 sent to the Secretary's representative, San Francisco EBSA Regional Director at 90
16 Seventh Street, Suite 11-300, San Francisco, CA 94103.

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18 Dated this day of 17th April, 2019.

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